IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 57 OF 1998.

The Commissioner of Income-tax. ... Applicant.

V/s.

Shri Chhatrapati S.S.K.Ltd. ... Respondent.

Ashok Kotangale with Parag Vyas for the applicant.

P.J.Vaidya with S.N.Inamdar for the respondent.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 4th October 2005.

P.C. :

. By this reference under section 256(1) of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following questions of law for the opinion of this Court:

1. Whether, on the facts and in the circumstances of the case, the ITAT relying on the decision of Special Bench of ITAT in the case of Shri Chhatrapati S.S.K. (198 ITR -78 - AT) was right in deleting the various funds/deposits collected by the assessee society out of the sugarcane purchase price payable to the cane growers are not trading receipts of the assessee."

   (1) Non-refundable deposits;
   (2) Refundable deposits;
   (3) Cane development fund;
   (4) Area development fund;
   (5) Chief Minister’s fund;
   (6) Hutment fund;
   (7) Small savings;
   (8) Interest on N.R.D.

. Learned counsel for the parties agreed that in view of the decision of the Apex Court in the case of **Siddheshwar Sahakari Sakhar Karkhana Ltd. v. C.I.T.**, (2004) 270 ITR 1, so far as item Nos.(1); (2); (5); (6) and (7) are concerned, the question referred is answered in favour of the assessee and against the Revenue. So far as item Nos.(3); (4) and (8) are concerned, the question referred is remanded to the Tribunal for determination afresh.

. Reference stands disposed of with no order as to costs.

(J.P.DEVADHAR, J.) **(V.C.DAGA, J.)**